

REMARKS

Claims 1-56 are currently pending. In the Office Action dated April 17, 2006 ("OA"), the Examiner rejected claims 1-56. With this response, Applicants amend claims 2-10, 12, 14-26, 28-36, 38, 40-46, 48-51, and 53-56 and add new claim 57. Applicants would like the Examiner to note that the amendments to claims 2-10, 12, 14-26, 28-36, 38, 41-46, 48-51, and 53-56 were for minor typographical purposes that do not relate to the patentability of these claims. Applicants respectfully traverse the rejection and request reconsideration based on following remarks.

In addition, Applicants do not automatically agree with or acquiesce in the Examiner's characterization of the claims or the prior art, even if those characterizations are not addressed herein.

Double Patenting

The Examiner provisionally rejected claims 1, 15-27, and 31-36 on the grounds of non-statutory obviousness-type double patenting over claims 1, 4, and 11-20 of co-pending Application No. 10/061,526.

Because a provisional non-statutory double patenting rejection does not create a statutory grounds for unpatentability, Applicants prefer not to address the merits of the provisional double patenting rejection at this time.

Claim Rejections under 35 U.S.C. § 102

To establish a proper 102 rejection, each element of the claim must be disclosed expressly or inherently within the prior art. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a

single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Examiner rejected claims 1, 2, 4, 11, 16, 17, 47-56 under 35 U.S.C. § 102(e) as being anticipated by U.S. Application No. 2005/0177506 ("Rissanen"). The Examiner appears to further reject claims 27, 28, 30, and 37 under 35 U.S.C. § 102(e) as being anticipated by Rissanen. See OA at page 11. Applicants respectfully traverse the rejection and request reconsideration based on the following remarks.

Claim 1 is directed to a method including "in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies" (emphasis added).

Rissanen provides a host-sponsored data transmission billing system and method. As shown in Figure 1 and its corresponding text, the billing system 12 receives a request for a web page from mobile user 14, wherein the destination of the request is established at the mobile user when the user requests a particular IP address. Once the billing system 12 receives the request, the billing system 12 forwards the request to the appropriate destination website 18, 20 and bills the mobile user based on the destination website. But, importantly the destination website was established at the mobile user 14. In other words, Rissanen is limited because the billing system 12 matches the destination website, provided in the request packet, with a stored website for billing purposes and then the billing system 12 forwards the request to the destination website. Therefore, Rissanen fails to teach or disclose "determining a provider for the service according to stored policies." For at least these reasons,

Applicants respectfully submit that claim 1 is patentable over the cited prior art. Claims 2, 4, 11, 16, and 17 depend on claim 1 and are patentable for at least the same reasons as claim 1.

Like claim 1, claim 27 recites “determining a provider for the service according to stored policies.” For at least the reasons provided above, Applicants respectfully submit that claim 27 is patentable over the cited prior art. Claims 28, 30, and 37 depend on claim 27 and are patentable for least the same reasons as claim 27.

Further, claims 11 and 37 recite “determining whether the user is authorized to use the service.” The Examiner alleges that this element of claims 11 and 37 is disclosed by Rissanen at Figure 3 and items 62, 64, 68, and 74. But, Rissanen is concerned with whether the mobile user 14 provides an IP address that matches a stored IP address and does not take into account whether the user is authorized to use the service. Therefore, Rissanen fails to disclose “determining whether the user is authorized to use the service.” For at least these reasons, Applicants respectfully submit that claims 11 and 37 are patentable over the cited prior art.

Claim 47 is directed to a method comprising “...selecting a service provider for the packet switched data service; connecting a session to the selected service provider...” As stated above, the billing system 12 is limited to determining whether the incoming IP address matches any IP address stored in the database 62 for billing purposes and forwards the request to the designated website. Rissanen at page 2, paragraph 17. The billing system 12 of Rissanen does not select a service provider for the packet switched data service. Accordingly, Rissanen does not connect a session to the selected service provider. Therefore, Rissanen fails to teach or suggest

“...selecting a service provider for the packet switched data service; connecting a session to the selected service provider....” For at least these reasons, Applicants respectfully submit that claim 47 is patentable over the cited prior art. Claims 48-56 depend on claim 47 and are allowable for at least the same reasons as claim 47.

Further, claim 49 recites “...wherein selecting further comprises: authenticating access for the user to the service provider” and claim 51, which depends on claim 50, recites “determining authorization for the user to the selected service.” The Examiner alleges that claims 49 and 51 are disclosed by Rissanen at items 62, 64, 66, and 68. But, Rissanen is concerned with whether the mobile user 14 provides an IP address that matches a stored IP address for billing purposes and does not take into account whether the user is authorized to use the service. Further, the Examiner appears to take official notice by stating “the use of user ID and password for authentication is well known in the art.” OA at page 4. But the Examiner has not provided any reasoning why one of ordinary skill in the art would combine these features considering that the billing system of Rissanen is only concerned with matching the requested IP address with a stored IP address for billing purposes and then forwarding the IP address to the destination server. Rissanen is silent with respect to authenticating access for the user and determining authorization for the user. Therefore, Rissanen fails to disclose “...wherein selecting further comprises: authenticating access for the user to the service provider” and “determining authorization for the user to the selected service.” For at least these reasons, Applicants respectfully submit that claim 49 and 51 are patentable over the cited prior art.

The Examiner rejected claims 41-45 under 35 U.S.C. § 102(e) as being anticipated by U.S. Application No. 2003/0079013 ("l'Anson"). Applicants respectfully traverse the rejection.

Amended claim 41 recites "processing billing information, in real time, that adjusts a user account of a user based on the user using a transactional based service...." l'Anson discloses a method for charging for value-added service (VAS) resource usage in a communication infrastructure. But l'Anson is limited to disclosing a billing system that requires a user to provide a credit card payment to the website either before using the service or after using the service and not in real time when the user is using the transactional based service. See l'Anson at page 2, paragraph 30.

Therefore, l'Anson fails to disclose "processing billing information, in real time, that adjusts a user account of a user based on the user using a transactional based service...." For at least these reasons, Applicants respectfully submit that claim 41 is patentable over the cited prior art. Claims 42-45 depend on claim 41 and are patentable for at least the same reasons as claim 41.

The Examiner rejected claims 41-44 and 46 under 35 U.S.C. § 102(e) as being anticipated by U.S. Application No. 2002/0009053 ("Sjoblom"). Applicants respectfully traverse the rejection.

The Sjoblom application is not prior art. On July 13, 2001, the Sjoblom application was filed in the United States and the US filed application claimed priority to PCT/FI00/00036, which was originally filed on January 18, 2000. Sjoblom claims priority to an international application that was filed prior to November 29, 2000. MPEP

§ 706.02(a)(II)(A) states that “[n]o international filing dates prior to November 29, 2000 may be relied upon as a prior art date under 35 U.S.C. 102(e) in accordance with the last sentence of the effective date provisions of Pub. L. 107-273...[p]ublications of international applications filed before November 29, 2000 (which would include WIPO publications and U.S. publications of the national stage (35 U.S.C. 371)) do not have a 35 U.S.C. 102(e) date at all (however, such publications are available as prior art under 35 U.S.C. 102(a) or (b) as of the publication date).” MPEP § 706.02(f)(1) provides a few examples (Example 6 being the most relevant) regarding the examination guidelines for applying references under 35 U.S.C. 102(e). Because the Sjoblom application claims priority to PCT/FI00/00036, which was filed prior to November 29, 2000, the Examiner cannot rely upon the January 18, 2000 filing date of PCT/FI00/00036 to establish the 102(e) rejection using the Sjoblom application. The Sjoblom U.S. patent application was filed on July 13, 2001, which is after the present application’s priority date of May 25, 2001. Thus, the Sjoblom application does not qualify as prior art. Therefore, the Applicants respectfully request that the rejection of claims 41-44 and 46 be withdrawn.

If the Examiner considers using the publication date of PCT/FI00/00036 (“Sjoblom PCT”) to reject claims 41-44 and 46, Applicants respectfully submit that the Sjoblom PCT fails to teach or disclose the elements of claim 41.

Amended claim 41 recites “processing billing information, in real time, that adjusts a user account of a user based on the user using a transactional based service....” The Sjoblom PCT discloses providing a billing system in Fig 5. But the Sjoblom PCT is silent regarding processing the billing information. See l’Anson at page 2, paragraph 30. Therefore, the Sjoblom PCT fails to disclose “processing billing

information, in real time, that adjusts a user account of a user based on the user using a transactional based service....” For at least these reasons, Applicants respectfully submit that claim 41 is patentable over the cited prior art. Claims 42-44 and 46 depend on claim 41 and are patentable for at least the same reasons as claim 41.

Claim Rejections under 35 U.S.C. § 103

To establish a prima facie case of obviousness, MPEP § 2142 requires that (1) the prior art reference must teach or suggest all claimed elements, (2) there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference, and (3) there must be a reasonable expectation of success.

The Examiner rejected claims 5, 6, 12, 31, 32, and 38 under 35 U.S.C. § 103(a) as being unpatentable over Rissanen in view of U.S. Patent No. 6,795,707 (“Martin”). Applicants respectfully traverse the rejection.

Claims 5, 6, and 12 depend directly or indirectly on independent claim 1. Claim 1 recites “in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies” (emphasis added). Martin fails to overcome the deficiencies of Rissanen regarding claim 1. Therefore, Rissanen in view of Martin fail to disclose “determining a provider for the service according to stored policies.” Because claims 5, 6, and 12 directly or indirectly depend upon claim 1, claims 5, 6, and 12 are patentable over Rissanen in view of Martin for at least the same reasons as claim 1.

Claims 31, 32, and 38 directly or indirectly depend on claim 27. Like claim 1, claim 27 recites “determining a provider for the service according to stored policies.” As stated above, Rissanen in view of Martin fail to disclose “determining a provider for the service according to stored policies.” Because claims 31, 32, and 38 directly or indirectly depend upon claim 27, claims 31, 32, and 38 are patentable over Rissanen in view of Martin for at least the same reasons as claim 27.

The Examiner rejected claims 3, 7-10, 29, and 33-37 under 35 U.S.C. § 103(a) as being unpatentable over Rissanen in view of U.S. Application No. 2002/0003806 (“McKinnon”). Applicants respectfully traverse the rejection.

Claims 3 and 7-10 depend directly or indirectly on independent claim 1. Claim 1 recites “in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies” (emphasis added). McKinnon fails to overcome the deficiencies of Rissanen regarding claim 1. Therefore, Rissanen in view of McKinnon fail to disclose “in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies.” Because claims 3 and 7-10 directly or indirectly depend upon claim 1, claims 3 and 7-10 are patentable over Rissanen in view of McKinnon for at least the same reasons as claim 1.

Claims 29 and 33-37 directly or indirectly depend on claim 27. Like claim 1, claim 27 recites “determining a provider for the service according to stored policies.” As

stated above, Rissanen in view of McKinnon fail to disclose “determining a provider for the service according to stored policies.” Because claims 29 and 33-37 directly or indirectly depend upon claim 27, claims 29 and 33-37 are patentable over Rissanen in view of McKinnon for at least the same reasons as claim 27.

The Examiner rejected claims 13 and 39 under 35 U.S.C. § 103(a) as being unpatentable over Rissanen in view of U.S. Application No. 2003/016522 (“Syrjala”). Applicants respectfully traverse the rejection.

Claims 13 and 39 depend indirectly on independent claims 1 and 27, respectively. Claims 1 and 27 recite “determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies.” Syrjala fails to overcome the deficiencies of Rissanen regarding claims 1 and 27. Therefore, Rissanen in view of Syrjala fail to disclose “in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies.” Because claims 13 and 39 indirectly depend upon claims 1 and 27, respectively, claims 13 and 39 are patentable over Rissanen in view of Syrjala for at least the same reasons as claims 1 and 27.

The Examiner rejected claims 14 and 40 under 35 U.S.C. § 103(a) as being unpatentable over Rissanen in view of Syrjala and U.S. Patent No. 6,101,482 (“DiAngelo”). The Applicants respectfully traverse the rejection.

Claims 14 and 40 depend indirectly on independent claims 1 and 27, respectively. Claim 1 and 27 recite “determining a provider for the service according to stored policies.” DiAngelo fails to overcome the deficiencies of Rissanen and Syrjala regarding claims 1 and 27. Therefore, Rissanen in view of Syrjala and DiAngelo fail to disclose “determining a provider for the service according to stored policies.” Because claims 14 and 40 indirectly depend upon claims 1 and 27, respectively, claims 14 and 40 are patentable over Rissanen in view of Syrjala and DiAngelo for at least the same reasons as claims 1 and 27.

The Examiner rejected claims 15-26 under 35 U.S.C. § 103(a) as being unpatentable over Rissanen in view of Applicant admitted prior art (“Applicants’ Admissions”). Applicants respectfully traverse the rejection.

Claims 15-26 depend directly or indirectly on independent claim 1. Claim 1 recites “in a wireless network, receiving a user request for a packet switched data service; determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies” (emphasis added). Admissions fail to overcome the deficiencies of Rissanen regarding claim 1. Therefore, Rissanen in view of Applicants’ Admissions fail to disclose “determining a provider for the service according to stored policies; and determining a billing arrangement for the service according to the stored policies.” Because claims 15-26 directly or indirectly depend upon claim 1, claims 15-26 are patentable over Rissanen in view of Applicants’ Admissions for at least the same reasons as claim 1.

Applicants fail to understand how claims 15-26 can be rejected under Rissanen in view of Applicants' Admissions based on the mentioning of "second generation wireless systems" within the Background. Applicants respectfully request the Examiner to provide further reasoning if the rejection is maintained.

New Claim 57

New claim 57 includes the elements of original claims 41 and 46. As stated above, the Sjoblom application is not prior art. On July 13, 2001, the Sjoblom application was filed in the United States and the US filed application claimed priority to PCT/FI00/00036, which was originally filed on January 18, 2000. Sjoblom claims priority to an international application that was filed prior to November 29, 2000. MPEP § 706.02(a)(II)(A) states that "[n]o international filing dates prior to November 29, 2000 may be relied upon as a prior art date under 35 U.S.C. 102(e) in accordance with the last sentence of the effective date provisions of Pub. L. 107-273...[p]ublications of international applications filed before November 29, 2000 (which would include WIPO publications and U.S. publications of the national stage (35 U.S.C. 371)) do not have a 35 U.S.C. 102(e) date at all (however, such publications are available as prior art under 35 U.S.C. 102(a) or (b) as of the publication date)." MPEP § 706.02(f)(1) provides a few examples (Example 6 being the most relevant) regarding the examination guidelines for applying references under 35 U.S.C. 102(e). Because the Sjoblom application claims priority to PCT/FI00/00036, which was filed prior to November 29, 2000, the Examiner cannot rely upon the January 18, 2000 filing date of PCT/FI00/00036 to establish the 102(e) rejection using the Sjoblom application. The Sjoblom U.S. patent application

was filed on July 13, 2001, which is after the present application's priority date of May 25, 2001. Thus, the Sjoblom application does not qualify as prior art. Therefore, the Applicants respectfully request that the rejection of claims 41-44 and 46 be withdrawn.

Unless the Examiner allows claim 57, Applicants respectfully request that the second Office Action, if necessary, not be made Final because the Examiner used a reference that was not prior art to reject the elements of claim 57, when claims 41 and 46 were rejected by the Sjoblom application in the OA.

Conclusion

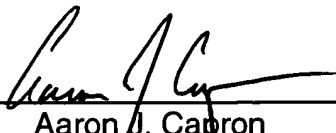
In view of the foregoing amendments and remarks, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our deposit account 06-0916.

Respectfully submitted,

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